



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAMS

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

August 16, 2018

Honorable Barry Brenard  
Chairperson  
Bear River Band of Rohnerville Rancheria  
266 Kiesner Road  
Loleta, CA 95551

**SUBJECT: Final 2018 Monitoring Report**

Dear Chairperson Brenard:

On April 9-13, 2018, the Southwest Office of Native American Programs (SWONAP) conducted an on-site monitoring review of the Indian Housing Block Grant (IHBG) and Indian Community Development Block Grant (ICDBG) funded by the U.S. Department of Housing and Urban Development (HUD). SWONAP issued a draft monitoring report on May 30, 2018 that described the performance accomplishments of the Bear River Band of Rohnerville Rancheria (Band). No deficiencies were identified during the review; therefore, no corrective actions to resolve any deficiencies were proposed in the report.

SWONAP did not receive a response to the draft monitoring report. The final monitoring report is attached which completes the 2018 monitoring review process.

The report is considered public information and will be provided to interested parties through a request in accordance with the Freedom of Information Act. For more information, visit [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/foia](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia).

SWONAP commends the the Band's accomplishments and its participation in the IHBG and ICDBG programs is appreciated. If you would like to discuss any issues in the final monitoring report or request technical assistance, please contact Sid Shahid, Grants Evaluation Specialist, by telephone at 602-379-7229 or by email at [Asad.Shahid@hud.gov](mailto:Asad.Shahid@hud.gov).

Sincerely,

A handwritten signature in purple ink, appearing to read "Rebecca L. Halloran".

Rebecca L. Halloran  
Director  
Grants Evaluation Division

Enclosures (4):

Enclosure A: Final IHBG Monitoring Report

Enclosure B: Appendix A: IHBG Statutory and Regulatory Requirements

Enclosure C: Final ICDBG Monitoring Report

Enclosure D: Appendix B: ICDBG Statutory and Regulatory Requirements.

**BEAR RIVER BAND OF ROHNERVILLE RANCHERIA  
FINAL MONITORING REVIEW REPORT  
INDIAN HOUSING BLOCK GRANT  
APRIL 9–13, 2018**

On April 9-13, 2018, the Southwest Office of Native American Programs (SWONAP) conducted an on-site monitoring review of the Bear River Band of Rohnerville Rancheria's (Band) Indian Housing Block Grant (IHBG) program. The purpose of the review was to fulfill the U.S. Department of Housing and Urban Development's (HUD) statutory obligation under Section 405 of the Native American Housing Assistance and Self-Determination Act (NAHASDA), and to review the performance of an IHBG recipient's compliance with the requirements of NAHASDA.

The monitoring review was designed to evaluate the Band's performance based on its

- Adherence to its Indian Housing Plan (IHP)
- Implementation of eligible activities in a timely manner
- Submission of accurate Annual Performance Reports (APR)
- Administration of its programs in accordance with the requirements and primary objective of NAHASDA, the IHBG program regulations at 24 CFR Part 1000, and other applicable laws and authorities.

The performance measures at 24 CFR § 1000.524 were used to conduct the monitoring review. See the attached Appendix A for a description of the pertinent IHBG statutory and regulatory requirements.

The grant reviewed was IHBG grant number 55IT0630740. The areas reviewed were:

- Admissions, Eligibility and Occupancy
- Environmental Review Compliance
- Financial and Fiscal Management
- IHP and APR Compliance
- Procurement and Contract Administration
- Self-Monitoring.

SWONAP staff who participated in the review were:

- Sid Shahid, Grants Evaluation Specialist (Trip Lead)
- Jane Alex, Grants Evaluation Specialist
- Dalynn Holden, Lead Grants Evaluation Specialist.

An entrance conference was held on April 10, 2017. The following officials and staff represented the Band:

- Charmin Bailey, Housing Director
- Aaron McKinney, Procurement Director
- Nichoma Cantrell, Tribal Council Member
- Brittany Gonzales, Executive Secretary
- Edwin Smith, Vice-Chairperson
- David Montoya, Executive Director/Attorney
- Allen Rode, Finance Director.

The following staff representing the Band were consulted or interviewed as part of the review:

- Charmin Bailey, Housing Director
- Aaron McKinney, Procurement Director
- Allen Rode, Finance Director.

A wrap up meeting was held on was held on April 12, 2018 with the following officials and staff representing the Tribe:

- Charmin Bailey, Housing Director
- Aaron McKinney, Procurement Director
- Nichoma Cantrell, Tribal Council Member
- Brittany Gonzales, Executive Secretary
- Edwin Smith, Vice-Chairperson
- David Montoya, Executive Director/Attorney
- Allen Rode, Finance Director.

## **SUMMARY OF FINDINGS AND CONCERNS**

The review did not identify any findings or concerns. A finding is a deficiency in program performance that represents a violation of a statutory or regulatory requirement. Corrective actions must be taken to address a finding. See Appendix A for a description of the statutory and regulatory requirements associated with each monitoring area.

A concern is a deficiency in program performance that does not constitute a violation of a statutory or regulatory requirement. While it is not required that concerns be addressed, doing so can avoid a reoccurrence of the problems or ensure that these problems do not develop into something more serious. The summary of areas reviewed during the monitoring review is presented below.

### **ADMISSIONS, ELIGIBILITY AND OCCUPANCY**

No findings or concerns in this area.

### **ENVIRONMENTAL REVIEW COMPLIANCE**

No findings or concerns in this area.

## **FINANCIAL AND FISCAL MANAGEMENT**

No findings or concerns in this area.

## **IHP and APR COMPLIANCE**

No findings or concerns in this area.

## **PROCUREMENT AND CONTRACT ADMINISTRATION**

No findings or concerns in this area.

## **SELF MONITORING**

No findings or concerns in this area.

## **SIGNIFICANT ACCOMPLISHMENTS**



The Bear River Band of Rohnerville Rancheria's (Band) provides low income housing in an exemplary manner to deserving tribal members. The Band continues to successfully develop, manage, and maintain the Tish Non Subdivision. Recently, the Band completed the construction of three new homes utilizing its 2016 and 2017 IHBG funding as matching dollars with its 2016 Indian Community Development Block Grant (ICDBG) for this newest phase.

## **STATUS OF PREVIOUS AUDIT FINDINGS**

The Band submitted its financial audit for Fiscal Year Ended December 31, 2016 to the Federal Audit Clearinghouse (FAC) on June 29, 2017. This audit report was submitted to the FAC in accordance with the program requirements at 2 CFR § 200.512 and the Tribe received an unmodified opinion for the financial statements and federal awards. A review of this audit package disclosed no findings that related directly or indirectly to the administration of the HUD programs.

## **ADMISSIONS AND OCCUPANCY**

A review of the Band's Admissions and Occupancy policies and records regarding its Indian Housing Block Grant (IHBG) number 55IT0630740 was performed. The scope of the review consisted of reviewing 3 files representing all of the homes receiving NAHASDA assistance, corresponding records, information reported in the Band's "Housing Policy" that included its Admission and Occupancy requirements, and compliance with NAHASDA, Sections 203 & 207.

The Band used its 2016 and 2017 IHBG funding as matching dollars for its 2016 Indian Community Development Block Grant (ICDBG) for new home construction of 3 homes. The homes were built for low to moderate income families. Once the family is determined eligible and selected to receive the home, the family is considered the homeowner and does not make any payments to the Band. However, the Band does require that homeowners to sign Useful Life Binding Commitments and requires the homeowner to maintain insurance on the home to protect the community's investment and its housing stock. The 3 selected homeowners moved into their homes the first of this year.

SWONAP reviewed the Band's application process, waiting list, application of preference established in the Band's Housing Policy, eligibility and the selection of families. A review of the application documents and homeowners' s files reflected that the Band had followed its policies when selecting the homeowners and that the selected homeowners were income eligible at the time they took possession of the home.

No finding or concern was identified in this area.

### **ENVIRONMENTAL REVIEW COMPLIANCE**

The objective of this review area was to verify the Band's compliance with environmental regulations for its activities. The Band was asked to produce Environmental Review Records (ERR) for the FY 2016 and FY 2017 IHBG activities (same as 2016 ICDBG ERR) to include the following environmental review levels as applicable:

- Exempt (E)
- Categorical Exclusions (CE)
- Environmental Assessments (EA)

The Band uses all of its 2016 and 2017 IHBG funds as matching funds for its 2016 ICDBG award for new home construction. The Band did not assume environmental review responsibilities. The Band hired SHN Consulting Engineers and Geologists Inc. to provide relevant information to ONAP to complete the ERR in accordance with 24 CFR Part 50. The subject 3 homes were part of the Tish Non Village Project and are identified as the Phase 7 Project in the Environmental Assessment (EA). The Band maintained the EA and all supporting documentation on file. The on-site review verified that any necessary mitigation was completed in accordance with the EA. In addition, SWONAP verified that the Band's Authority to Use Grant Funds, HUD-7015.16 was signed on 12/6/16 and no funds were obligated or disbursed for ineligible activities prior to this date.

No findings or concerns were identified in this monitoring area.

### **FINANCIAL AND FISCAL MANAGEMENT**

The scope of this area's review included an examination of the following documents: budget reports, accounting records, chart of accounts and check disbursements, written policies

and procedures, internal controls, cash disbursements, indirect cost rates, payroll, cost eligibility, and allocation.

SWONAP reviewed the reconciliation of the FY 2016 and FY 2017 APR to the financial records, as well as the regular reconciliation of Line of Credit Control System (LOCCS) drawdowns and the SF-425.

SWONAP reviewed general ledgers, trial balance, and transactions from the Financial Detail Check Disbursement Report for activities from October 1, 2017 through December 30, 2017. SWONAP tested 2 transactions that were for the sole construction project. The Band had leveraged two years of IHBG funds to the ICDBG construction project, and the funds were applied accordingly. SWONAP reviewed the reconciliation of the Program Year 2017 APR to the financial records, as well as the regular reconciliation of Line of Credit Control System (LOCCS) drawdowns and the SF-425.

No findings or concerns were identified in this monitoring area.

### **IHP and APR COMPLIANCE**

The purpose of the IHP and APR compliance review is to verify project accomplishments with corresponding expenditures and compliance as reported by the Band in the 2016 APR. This review consisted of going through each program and its accomplishments by conducting in person interviews with the applicable housing staff and observations made by the review team while on site. SWONAP assessed the following areas to ensure compliance:

- IHP/APR public availability
- Insurance verification
- Program accomplishments
- Useful life/Binding Commitments.

SWONAP verified the IHP and APR was made available to the public and the reported project accomplishments were consistent with actual project progress and consistent with expenditures. The Band does not maintain insurance coverage, it is the responsibility of the homeowner; however, the Band verifies on a quarterly basis that the homeowners have adequate insurance. The Band staff exhibit a good understanding of NAHASDA requirements and their job responsibilities.

No findings or concerns were identified in this monitoring area.

### **PROCUREMENT AND CONTRACT ADMINISTRATION**

SWONAP reviewed the relevant procurement policies and procedures which included a micro-purchase policy set at \$5,000.00. SWONAP also sampled procurement records, reviewing for compliance and for evidence of the application of Indian Preference and Fair and Open Competition. No expenditure exceeded the micro purchase threshold, and each was assessed to verify the transactions were not broken down to avoid exceeding the micro-purchase thresholds.

The review further disclosed that the Band only spent its IHBG and ICDBG funds on construction activities.

In addition, two major construction contracts were reviewed to examine and document contract administration. Both Contracts, SHN Engineers and Geologists and Adams Commercial General Contracting, respectively, were found to contain the necessary elements and provisions and were administered and procured correctly.

No findings or concerns were identified in this monitoring area.

### **SELF-MONITORING**

SWONAP reviewed the following documents pertaining to the Band's self-monitoring activities:

- 2016 IHP/APR
- Self Monitoring Policy
- 2016 and 2017 Self-Monitoring Assessment.

In addition, SWONAP interviewed the Housing Director regarding the self-monitoring assessment and the areas it covers. The Housing Director advised that self-monitoring is performed and is completed on an annual basis. A review of the assessments indicated that the Band is doing self-monitoring quite thoroughly on a consistent basis. The assessment identified program progress and minor areas of concern with a plan to address them promptly.

No finding or concern was identified in this monitoring area.

**APPENDIX A: IHBG Statutory and Regulatory Requirement**

**Admissions and Occupancy**

IHBG recipients are required to comply with Section 201(b)(1) of NAHASDA and 24 CFR § 1000.104(a) to ensure that, except in special circumstances, assistance provided with NAHASDA funds is limited to low-income Indian families. Section 203(d) of NAHASDA further requires that each recipient develop written policies governing the eligibility, admission, and occupancy of families assisted with NAHASDA funds. Section 102(b)(2)(D)(iii) of NAHASDA requires the recipient provide a certification that eligibility, admission and occupancy program policies are in effect to govern the implementation and operation of its NAHASDA program. Activities reviewed include the application of income limits, procedures for determining eligibility, income verification, waiting list maintenance, inspections, and periodic recertification.

**Environmental Review**

The program regulations at 24 CFR § 1000.20(b) state that if a tribe assumes environmental review responsibilities for IHBG program activities, HUD's environmental review and clearance requirements in 24 CFR Part 58 apply. The program regulations at 24 CFR § 1000.20(b)(3) also state that funds may not be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds, except as allowed under 24 CFR Part 58. These procedures are designed to ensure that a recipient does not limit itself to a particular course of action prior to satisfactorily addressing all applicable environmental considerations that may impact the design and construction of a facility or project. The regulation at § 58.38 requires that the responsible entity maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient.

OR

The program regulations at 24 CFR § 1000.20(a) state that if a tribe declines to assume environmental review responsibilities for IHBG program activities, HUD will perform the review according to the provisions of 24 CFR Part 50. In this section, the program regulations state that a HUD review must be completed for any assisted activity not excluded from review under the provisions of 24 CFR § 50.19(b) before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to such activities. These procedures are designed to ensure that a recipient does not limit itself to a particular course of action prior to all applicable environmental considerations that may impact the design and construction of a facility or project.

## Financial and Fiscal Management

The scope of the performance review for financial and fiscal management included funds drawn down, accounting records, internal controls, cash management, budget control, audits, and investments.

The program regulations at 24 CFR § 1000.26(a) reference the applicability of 24 CFR §§ 85.20(b) and 85.21 (2 CFR Part 200 Subpart D – Post Award Requirements) and OMB requirements as set forth in 2 CFR Part 225 (formerly known as OMB Circular A-87) (2 CFR Part 200 Subpart D – Post Award Requirements) and the applicability of the audit requirements of OMB Circular A-133 (2 CFR Part 200 Subpart F – Audit Requirements) as referenced in § 1000.544.

**Financial Audits.** NAHASDA regulations at 24 CFR § 1000.544 require recipients to comply with the requirements of the Single Audit Act. The Single Audit Act, at 31 U.S.C. § 7502(a)(1)(A), requires that each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$500,000 in any fiscal year, such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of the Single Audit Act. The regulations at 2 CFR Part 200 (formerly OMB Circular A-133) require that a copy of the annual single audit or a program-specific audit be submitted to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the audit report or nine months after the end of the audit period. The regulations at 24 CFR § 1000.548 require the latest recipient audit relating to NAHASDA activities be submitted to the area ONAP office at the same time it is submitted to the Federal Audit Clearinghouse. A compliant OMB Circular A-133 audit (2 CFR Part 200 Subpart F – Audit Requirements), also assists HUD in making the determination that the recipient's IHBG funds have not been used in violation of the restrictions and prohibitions of NAHASDA, and the implementing regulations.

**Other Financial Reports.** In addition, the program regulations at 24 CFR § 1000.26(a) reference the applicability of 24 CFR § 85.20(b)(1) (2 CFR 200.302(b)(2)) which requires accurate, current, and complete disclosure of the financial results of financially-assisted activities. Reporting requirements are addressed in NAHASDA Guidance No. 98-04. The Line of Credit Control System (LOCCS) requires semi-annual reports for certain 1937 Housing Act grants, as well quarterly reports for NAHASDA grants. When progress reports are not submitted as required, LOCCS does not allow funds to be disbursed.

NAHASDA recipients are required to submit the Federal Financial Report (SF 425) and the APR. The SF 425 is due from the recipient no later than 30 days following the end of the quarter.

**Total Development Costs.** HUD regulation 24 CFR § 1000.156 requires housing funded under the IHBG program be of moderate design. Further, 24 CFR § 1000.158 establishes Total Development Cost (TDC) limits that a recipient may not exceed, without prior HUD approval, when developing its low-income units. Notice PIH 2011-63, which extends Notice PIN 2010-47, states that the tribe/Tribally Designated Housing Entity (TDHE) is responsible for ensuring that the amount of funds from all sources used to develop each low-income unit does not exceed the

established TDC limits. The tribe/TDHE must maintain records showing that the housing was developed in keeping with this and other applicable requirements.

### **IHP and APR Compliance**

The program regulations at 24 CFR § 1000.520 require that HUD determine whether the recipient has carried out the eligible activities outlined in the IHPs in a timely manner, has carried out the eligible activities and certifications in accordance with the requirements and the primary objectives of NAHASDA and other applicable laws, and has a continuing capacity to carry out the activities in a timely manner. The review is completed in accordance with the IHBG performance measures outlined at 24 CFR § 1000.524. Section 102(b)(2)(D) of NAHASDA requires the submission of a Certification of Compliance related to ensure compliance with Title II of the Civil Rights Act of 1968 (to the extent such title is applicable), and maintenance of adequate insurance coverage for housing units that are owned and operated or assisted with IHBG funds. The review also determines whether the recipient has established written policies for participant eligibility, admission, continued occupancy, rent or homebuyer payments, and housing. The accuracy and completeness of APR submissions are evaluated as part of this review, and the IHP performance goals and objectives and the accomplishments reported in the APR are also reviewed.

**Useful Life and Binding Commitments.** Section 205(a)(2) of NAHASDA requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of the Act. The Act also requires that this affordability be secured through binding commitments satisfactory to the Secretary.

The IHBG regulation at 24 CFR § 1000.142 states that to the extent required in the IHP, each recipient shall describe its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By approving the plan, HUD determines the useful life in accordance with section 205(a)(2) of NAHASDA and for purposes of section 209.

**Local Cooperation Agreement.** Under Section 101(c) of NAHASDA, IHBG funds provided on behalf of an Indian tribe may not be used for rental or lease-purchase homeownership units that are owned by the IHBG recipient for the tribe and developed under NAHASDA or the United States Housing Act of 1937 (42 U.S.C. §1437 et seq.) unless the governing body of the locality, within which the rental or lease-purchase homeownership units are or will be situated, has entered into an agreement with the recipient. With limited exception, the cooperation agreement must provide for local cooperation, tax-exemption of the units and the annual payments of user fees or payments in lieu of taxes to compensate such governments for the costs of providing governmental services (i.e., including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities).

The annual payments of user fees or payments in lieu of taxes may be an amount equal to the greater of \$150 per dwelling unit or 10 percent of the difference between the shelter rent and the

utility cost, or may be such lesser amount as: (a) is prescribed by State, tribal, or local law; (b) agreed to by the local governing body in the agreement; or (c) the recipient and the local governing body may agree that such user fees or payments in lieu of taxes shall not be made.

### **Procurement and Contract Administration**

Program regulations at 24 CFR § 1000.26(a)(11) require recipients to comply with 24 CFR § 85.36 (2 CFR Part 200.317 – 200.326) when procuring goods and services. The regulations at 24 CFR § 85.36(c) (2 CFR 200.319(a)) require that all procurement transactions be conducted in a manner providing full and open competition consistent with the standards set forth in § 85.36(2 CFR Part 200.319). The regulations at 24 CFR § 85.36(b)(9) (2 CFR Part 200.318(i)) also require the maintenance of procurement records sufficient to detail the significant history of a procurement. These records are to include, but are not necessarily limited to documentation of the rationale for: 1) the method of procurement (small purchase, sealed bid, competitive or noncompetitive proposals); 2) the selection of contract type; 3) the contractor selection or rejection; and 4) the basis for the contract price, including the cost or price analysis required by 24 CFR § 85.36(f) (2 CFR Part 200.323). Additionally, for a cost to be allowable, under 2 CFR Part 225 (2 CFR Part 200), it must be “necessary and reasonable” and conform to the program requirements. The regulations at 24 CFR § 85.36(b)(2) (2 CFR Part 200.318(b)) also require grantees have a contract administration system in place to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase orders.

HUD regulations, at 24 CFR § 85.36(b)(3) (2 CFR Part 200.318(c)(1)) also require that grantees maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. The written code of conduct must contain a conflict of interest provision specifically prohibiting the grantee’s employees, officers or agents from participating in the selection, or in the award or administration of a contract if a conflict of interest, whether real or apparent, would be involved. A conflict of interest arises when: (i) such an employee, officer or agent of the grantee, (ii) any member of his immediate family, (iii) his or her partner, or, (iv) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. To the extent permitted by State and local law, this written code of conduct must also provide for penalties, sanctions or other disciplinary action for violations.

### **Self-Monitoring**

The IHBG program regulations at 24 CFR § 1000.502(a) require that the recipient establish an effective system to monitor its grant activities, ensure compliance with applicable Federal requirements, and monitor its IHP performance goals. In accordance with 24 CFR § 1000.502(b), if the grant recipient is a TDHE, the grant beneficiary, the tribe, is also responsible for monitoring IHBG compliance requirements by requiring the TDHE to prepare periodic progress reports including the annual compliance assessment, performance, and audit reports.

**BEAR RIVER BAND OF ROHNERVILLE RANCHERIA  
DRAFT MONITORING REVIEW REPORT  
INDIAN COMMUNITY DEVELOPMENT BLOCK GRANTS  
APRIL 9-13, 2018**

On April 9–13, 2018, the Southwest Office of Native American Programs (SWONAP) conducted an on-site monitoring review of the Bear River Band of Rohnerville Rancheria's (Band) Indian Community Development Block Grant (ICDBG) program. The purpose of the review is to fulfill the U.S. Department of Housing and Urban Development's (HUD) regulatory obligation under 24 CFR § 1003.700 to review compliance with the Housing and Community Development Act of 1974, as amended; the program regulations at 24 CFR Part 1003; the grant agreement; and other applicable laws and regulations. In addition, the program regulations require HUD to determine if an ICDBG recipient has carried out program activities substantially as described in its approved application and if it has made substantial progress in implementing its program. See the attached Enclosure D for a description of the pertinent ICDBG statutory and regulatory requirements.

The ICDBG grant numbers B16SR063074 and B13SR063074 were reviewed.

The areas reviewed for the referenced grants were:

- Environmental Review Compliance
- Financial and Fiscal Management (Includes Leveraging and Cost Limitations)
- Procurement and Contract Administration
- ICDBG Program Progress.

SWONAP staff who participated in the review were:

- Sid Shahid, Grants Evaluation Specialist (Trip Lead)
- Jane Alex, Grants Evaluation Specialist
- Dalynn Holden, Lead Grants Evaluation Specialist.

The following staff representing the Tribe were consulted or interviewed as part of the review:

- Charmin Bailey, Housing Director
- Aaron McKinney, Procurement Director
- Allen Rode, Finance Director.

**SUMMARY OF FINDINGS AND CONCERNS**

The review did not identify any findings or concerns. A finding is a deficiency in program performance that represents a violation of a statutory or regulatory requirement.

Corrective actions must be taken to address a finding. See Enclosure D to this report for a description of the statutory and regulatory requirements associated with each monitoring area.

A concern is a deficiency in program performance that does not constitute a violation of a statutory or regulatory requirement. While it is not required that concerns be addressed, doing so can avoid a reoccurrence of the problems or ensure that these problems do not develop into something more serious. The summary of areas reviewed during the monitoring review is presented below.

#### **ENVIRONMENTAL REVIEW COMPLIANCE**

No findings or concerns were identified in this monitoring area.

#### **FINANCIAL AND FISCAL MANAGEMENT**

No findings or concerns were identified in this monitoring area.

#### **PROCUREMENT AND CONTRACT ADMINISTRATION**

No findings or concerns were identified in this monitoring area.

#### **PROGRAM PROGRESS**

No findings or concerns were identified in this monitoring area.

### **ENVIRONMENTAL REVIEW**

The objective of this review area was to verify the Band's compliance with environmental regulations for its activities. The Band was asked to produce Environmental Review Records (ERR) for the 2016 ICDBG ERR (same as 2016 and 2017 IHBG) to include the following environmental review levels as applicable:

- Exempt (E)
- Categorical Exclusions (CE)
- Environmental Assessments (EA).

The Band uses all of its 2016 and 2017 IHBG funds as matching funds for its 2016 ICDBG award for new home construction. The Band did not assume environmental review responsibilities. The Band hired SHN Consulting Engineers and Geologists Inc. to provide relevant information to ONAP to complete the ERR in accordance with 24 CFR Part 50. The subject 3 homes were part of the Tish Non Village Project and are identified as the Phase 7 Project in the Environmental Assessment (EA). The Band maintained the EA and all supporting documentation on file. The on-site review verified that any necessary mitigation was completed in accordance with the EA. In addition, SWONAP verified that the Band's Authority to Use Grant Funds, HUD-7015.16 was signed on December 6, 2016 and no funds were obligated or disbursed for ineligible activities prior to this date.

No findings or concerns were identified in this monitoring area.

## **FINANCIAL AND FISCAL MANAGEMENT**

The scope of this area's review included an examination of the following documents: budget reports, accounting records, chart of accounts and check disbursements, written policies and procedures, internal controls, cash disbursements, indirect cost rates, payroll, cost eligibility, and allocation.

SWONAP reviewed the reconciliation of the FY 2017 APR to the financial records, as well as the regular reconciliation of Line of Credit Control System (LOCCS) drawdowns and the SF-425.

SWONAP reviewed general ledgers, trial balance, chart of accounts and 10 transactions from the Financial Detail Check Disbursement Report for ICDBG from October 1, 2016 through December 31, 2017. The transaction tested were all related to the design and construction of three houses. The indirect cost allocations were verified, leverage funds were accounted for and no expenditures pre-dated the Request for Release Funds (RROF) approval date of December 6, 2016. The Band did not exceed their Total Development Cost. The last revised Implementation Schedule, submitted on January 23, 2018, was approved by SWONAP and indicates the ICDBG project is on schedule and will be closed June 1, 2018.

No findings or concerns were identified in this monitoring area.

## **PROCUREMENT AND CONTRACT ADMINISTRATION**

SWONAP reviewed the relevant procurement policies and procedures as identified in the Band's Policies and Procedures Manual. SWONAP also sampled procurement records, reviewing for compliance and for evidence of the application of Indian Preference and Fair and Open Competition. No expenditure exceeded the micro purchase threshold, and each was assessed to verify the transactions were not broken down to avoid exceeding the micro-purchase thresholds. The review further disclosed that the Band only spent its ICDBG funds on construction activities.

In addition, two major construction contracts were reviewed to examine and document contract administration. Both contracts, SHN Engineers and Geologists and Adams Commercial General Contracting, respectively, were found to contain the necessary elements and provisions and were administered and procured correctly.

No findings or concerns were identified in this monitoring area.

## **PROGRAM PROGRESS**

The 2016 ICDBG application proposed the continuation of new home construction in the Tish Non Subdivision. The last revised Implementation Schedule (HUD-4125) was submitted by the Band and was approved by SWONAP on January 23, 2018. The implementation schedule indicates that the ICDBG project will be closed June 1, 2018 and will be on schedule. The

construction of three new homes was verified by SWONAP. The Band continues to be successful in providing quality housing to their low-income tribal members.

No findings or concerns were identified in this monitoring area.

## **Appendix B: ICDBG Statutory and Regulatory Requirements**

### **Environmental Review Compliance**

The program regulations at 24 CFR § 1003.605 state that HUD's environmental review and clearance requirements in 24 CFR Part 58 apply. These procedures are designed to ensure that a recipient does not limit itself to a particular course of action prior to satisfactorily addressing all applicable environmental considerations that may impact the design and construction of a facility or project.

The regulation at 24 CFR § 58.38 requires that the responsible entity maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient.

### **Financial and Fiscal Management**

The scope of the performance review for financial and fiscal management included funds drawn down, accounting records, internal controls, cash management, budget control, and audits.

The program regulations at 24 CFR § 1003.501 reference the applicability of 24 CFR Part 85 (2 CFR Part 200 Subpart D – Post Award Requirements) and OMB requirements as set forth in 2 CFR Part 225 (2 CFR Part 200 Subpart D – Post Award Requirements) and the audit requirements of OMB Circular A-133 (2 CFR Part 200 Subpart F – Audit Requirements).

**Audits.** The Single Audit Act at 31 U.S.C. § 7502(a)(1)(A), requires that each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$750,000 in any fiscal year, such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of the Single Audit Act. The regulations at 2 CFR Part 200 (formerly OMB Circular A-133) requires that a copy of the annual single audit or a program-specific audit be submitted to the Federal Audit Clearinghouse within the earlier of 30 days after receipt of the audit report or nine months after the end of the audit period. A compliant OMB Circular A-133 (2 CFR Part 200 Subpart F – Audit Requirements) audit also assists HUD in making the determination that the recipient's ICDBG funds have not been used in violation of the restrictions and prohibitions of the Housing and Community Development Act, and the implementing regulations.

**Other Financial Reports.** In addition, the program regulations at 24 CFR § 85.20(b)(1) (2 CFR 200.302.(b)(2)) require accurate, current, and complete disclosure of the financial results of financially-assisted activities. When progress reports are not submitted as required, the Line of Credit Control System does not allow funds to be disbursed.

ICDBG recipients are required to submit to HUD the Federal Financial Report (SF 425) no later than 30 days following the end of the quarter.

### **Procurement and Contract Administration**

Program regulations at 24 CFR § 1003.501(a)(13) require recipients to comply with 24 CFR § 85.36 (2 CFR Part 200.317-326) when procuring goods and services. The regulations at 24 CFR § 85.36(c) (2 CFR 200.319) require that all procurement transactions be conducted in a manner providing full and open competition consistent with the standards set forth in § 85.36. The regulations at 24 CFR § 85.36(b)(9) (2 CFR 200.318(i)) also require the maintenance of procurement records sufficient to detail the significant history of a procurement. These records are to include, but are not necessarily limited to documentation of the rationale for: 1) the method of procurement (small purchase, sealed bid, competitive or noncompetitive proposals); 2) the selection of contract type; 3) the contractor selection or rejection; and 4) the basis for the contract price, including the cost or price analysis required by 24 CFR § 85.36(f) (2 CFR 200.323). Additionally, for a cost to be allowable, under 2 CFR Part 225 (2 CFR Part 200), it must be “necessary and reasonable” and conform to the program requirements. The regulations at 24 CFR § 85.36(b)(2) (2 CFR 200.318(b)) also require grantees have a contract administration system in place to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase orders.

HUD regulations, at 24 CFR § 85.36(b)(3) (2 CFR 200.318(c)(1)), also require that grantees maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. The written code of conduct must contain a conflict of interest provision specifically prohibiting the grantee’s employees, officers or agents from participating in the selection, or in the award or administration of a contract if a conflict of interest, whether real or apparent, would be involved. A conflict of interest arises when: (i) such an employee, officer or agent of the grantee, (ii) any member of his immediate family, (iii) his or her partner, or, (iv) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. To the extent permitted by State and local law, this written code of conduct must also provide for penalties, sanctions or other disciplinary action for violations.

### **Program Progress**

Each recipient of ICDBG assistance is required to submit a HUD 4125- Implementation Schedule as part of its application for assistance. This schedule becomes part of agreement between the recipient and HUD. An Implementation Schedule may be revised for good cause, but HUD must approve any such revision.